

intent of the legislature in the passage of the no-fault law was to impose a mandatory fine of at least \$100 per violation of Chapter 294. Judicial interpretation, however, has added the option of the suspension of such fine. This bill would re-establish the minimum mandatory fine as well as provide additional mandatory penalties for multiple offenders. Section 805-13(c), Hawaii Revised Statutes, is also amended to conform with these penalty provisions.

Fourth, a new section is added to Chapter 294 to provide the commissioner with exclusive jurisdiction over contested no-fault claims not in excess of \$5,000. Present law is silent as to the commissioner's authority in this area. Your Committee agrees with the testimony presented by the Department of Regulatory Agencies that the commissioner should be authorized to conduct such hearings and that such hearings be pursuant to the Administrative Procedures Act.

Your Committee feels that these amendments are in furtherance of the stated purposes of Hawaii's No-Fault Law and will clarify various uncertainties that have arisen since its inception.

Your Committee has made a technical, non-substantive change.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1986-80, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1986-80, S.D. 1, C.D. 1.

Senators Cobb, O'Connor and Carroll
Managers on the part of the Senate

Representatives Blair, Shito, Garcia, Uechi and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 7-80 on S.B. No. 2253-80

The purpose of this bill, as referred to your Committee, is to regulate the time share industry. Your Committee has amended this bill to delete material relating to time sharing, and to provide language which requires a person who owns or rents a lodging unit for transient rental use to submit a disclosure statement to the Real Estate Commission. The disclosure statement would not be required for normal hotel operations or for any gratuitous use.

The disclosure statement would include the name, address, and telephone number of the offeror, the lodging unit, and the managing agent. The responsibilities and authority of the managing agent would also be required to be disclosed. If a lodging unit were added to any rental pool by the offeror, the same type of information would be required to be submitted by the offeror or the managing agent.

The bill allows the Real Estate Commission to adopt rules and forms, pursuant to Chapter 91, and requires the submission of an annual report. The bill also makes a wilful violation of the chapter a "violation" under the Penal Code.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2253-80, S.D. 1, H.D. 1, as amended herein, and requests that it pass Final Reading in the form attached hereto as S.B. No. 2253-80, S.D. 1, H.D. 1, C.D. 1.

Senators Cobb, Carpenter and Yee
Managers on the part of the Senate

Representatives Blair, Aki, Larsen, Masutani, Shito and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 8-80 on S.B. No. 1516

The purpose of this bill is to regulate time sharing in the State of Hawaii.

In its resolution of the several issues involved in this bill, your Conference Committee has taken note of the growth of time sharing over the past several years, both in the State of Hawaii and in other tourist destination areas. Your Committee is aware that time sharing has generated controversy among the various interested parties, including the governments of the State and of the several counties, persons in the time share industry, and residents most directly affected by the growth of time sharing and its potential for expansion.

Simply stated, those who favor time sharing see it as a continuing stimulus to the economy of the State through the creation of additional jobs for residents of Hawaii and expenditures by time share participants. Opponents challenge the conclusion that time sharing constitutes

an economic advantage to the State, and consider it to be disruptive, particularly within areas where permanent residents live. The opponents would prefer the strict limitation or prohibition of time sharing, while its proponents favor enabling legislation to establish definite guidelines and procedures for its statutory regulation.

Your Committee concludes that it is necessary and timely for time sharing to be placed under strict governmental regulation if the interests of the State, the time sharing industry, the purchasers of time share units and above all, the people of Hawaii, are to be served. Accordingly, it is the intention of your Committee that careful regulatory oversight of time sharing in the State of Hawaii be provided.

The following are some of the more significant areas of regulation addressed in this measure:

Sec. -3 Taxation. Provides for reliable and efficient administration of real property and excise taxes.

Sec. -4 County authority. This mandate will be particularly helpful in efforts to clarify hotel, resort and transient vacation rental areas. The counties do not presently zone for the less traditional forms of transient visitor accommodations, and should address this in the near future.

Sec. -5 Geographic limitations. Provides a general prohibition, except as specifically allowed in the enumerated subsections. The first exemption is a "grandfather" provision to avoid any retroactive effect of this section.

The second exemption subsection provides for two exemptions from the prohibitory language. First, time sharing and transient vacation rentals are allowed in hotels. Second, time sharing and transient vacation rentals are allowed where designated for hotel use, resort use, or transient vacation rentals use, pursuant to county authority under Section 46-4, Hawaii Revised Statutes, or where the county, by its legislative process, designates hotel, transient vacation rental or resort use.

It is the clear intention of your conferees that time sharing and transient vacation rental use are identical uses of land, without regard to ownership, and that both uses of land should be addressed in a coequal manner by the counties. Your conferees further note that county land use decisions are not based on ownership, but on the use of the land in question. As such, time sharing and transient vacation rentals should be either permitted or prohibited on an equal basis within an area deemed appropriate by the county.

Your Committee further notes several areas of non-enforcement of their own zoning ordinances by some of the counties. In this regard, it is not the present character of the neighborhood, but its intended use by the county that is also important. The legislature intends by this Act that the counties will be guided by the notion that time sharing and transient vacation rentals should not be permitted where the life styles of the permanent residents will be disrupted in an unreasonable manner. Any zoning code is only as good as its enforcement by a county.

In its review of time sharing and transient vacation rentals, your conferees concluded that several of the counties have not used their zoning authority on these less formal and traditional types of transient visitor accommodations. The problems caused by this shortcoming in the county zoning ordinances are clearly demonstrated in the case of County of Maui vs. Puamana Management Corporation (Civil No. 3474-78), presently on appeal to the Supreme Court of the State of Hawaii.

Your conferees elected not to pre-judge where in an appropriate area time sharing and transient vacation rentals should be allowed or prohibited, but to leave that decision to each county as a logical part of its zoning or designation functions. Your Committee expects that the counties will act expeditiously to clarify the propriety of these uses under the zoning ordinances.

Sec. -6 Time sharing in projects. Provides that time sharing must be explicitly and prominently authorized in project instruments before such a use can commence in a project. Such authorization shall be by a unanimous vote of the unit owners. In projects which presently contain time sharing use, the project instruments will determine the restrictions, if any, to be imposed.

Sec. -7 Maintenance charges. In recognition that time sharing may result in more intensive use of buildings or projects and their common elements, your Committee has provided that higher maintenance fees, up to a maximum of an additional fifty percent, may be assessed against time share units and transient vacation rental units located in the same-building as private residential units. This proviso will more equitably distribute

maintenance costs, and should have the collateral effect of discouraging the mixed use of buildings.

Sec. -8 Mutual right to cancel. Provides a cooling-off-period of five calendar days after the execution of the contract or the receipt of the mandatory disclosure statement, whichever is the latter. It is hoped that this will remove some of the incentive to use high pressure sales techniques.

Sec. -9 Disclosure statement. Provides for the disclosure of pertinent information to prospective purchasers.

Sec. -10 Filing required; developer, sales agent, acquisition agent and plan manager. Provides for filing of the disclosure statement with the director. It also requires the filing of certain information by the acquisition agent, sales agent and plan manager and requires those persons to be bonded.

Sec. -11 Prohibited practices. Your Committee has defined and prohibited undesirable marketing practices such as beach and street solicitation on a Statewide basis.

Your Committee believes that these provisions will help to reduce the actual and perceived problems of time sharing without unduly retarding the industry.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1516, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1516, S.D. 1, H.D. 1, C.D. 1.

Senators Cobb, Carpenter and Yee
Managers on the part of the Senate

Representatives Blair, Aki, Larsen, Masutani, Shito and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 9-80 on S.B. No. 2869-80

The purpose of this bill is to amend Section 621-9, Hawaii Revised Statutes, relating to witness expenses and budgetary procedure, to include expenses for the return of criminal defendants, defendants in Chapter 704 proceedings, or post-conviction petitioners.

Under present practice, some expenses relating to defendants are processed through the courts. A more appropriate method is to remove the courts from having to cover such expenses and have the State bear all costs of the extradition procedure. This also relieves the court from the financial burden of such expenses.

Your Committee has amended S.B. No. 2869, S.D. 3, H.D. 1 as follows:

(1) SECTION 2 has been added repealing Section 704-419, Hawaii Revised Statutes, relating to expense for the return of defendants under Chapter 704, "Penal Responsibility and Fitness to Proceed."

(2) Chapter 704 expenses will now be charged to the State under Section 621-9(6) by addition of the words "or in a proceeding under Chapter 704" to line 9, page 2, and "court or" to line 16, and deletion of the exception for Section 704-419 in line 8. The "court or public prosecutor or the attorney general" shall certify expenses to the State.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2869-80, S.D. 3, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2869-80, S.D. 3, H.D. 1, C.D. 1.

Senators O'Connor, Ushijima and Carroll
Managers on the part of the Senate

Representatives D. Yamada, Baker, Honda, Medeiros and Uechi
Managers on the part of the House

Conf. Com. Rep. No. 10-80 on S.B. No. 1944-80

The purpose of this bill is to provide for judiciary security personnel similar to the capitol security force.

Your Committee has amended this bill to conform its language to that of section 28-11.5, Hawaii Revised Statutes, which provides for the law enforcement officers employed by